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PTO/SB/64 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
P00799-US-01 (20680.0001)

First named inventor: Kevin B. Kline

Application No.: 10/783,502

Art Unit:

Filed: 2/20/2004

Examiner:

Title: Thermostatic Mixing Valve

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of a copy of the original reply _____ (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

08/30/2005 TRESHAH1 00000001 10783502

750.00 DP

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.Homer W. Faucett
Signature8/25/05
Date

Homer W. Faucett, III

56,348

Typed or printed name

Registration Number, if applicable

Ice Miller, One American Square, Box 82001

(317) 236-2120

Address

Telephone Number

Indianapolis, Indiana 46282-0200

Address

Enclosures: ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☒ Other: Return Postcard

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (703) 872-9306.8-25-05
DatePatsy Fonseca
SignaturePatsy Fonseca
Typed or printed name of person signing certificate



August 25, 2005

WRITER'S DIRECT NUMBER: (317) 236-2120
DIRECT FAX: (317) 592-4819
INTERNET: homer.faucett@icemiller.com

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

VIA U.S. MAIL

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
Attn: Patricia Faison-Ball
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Services as first class mail in an envelope addressed to: Commissioner for Patents, Mail Stop Petition P.O. Box 1450, Alexandria, VA 22313-1450, on the date specified below.

8-25-05

(Date of Deposit)

Patsy Fonseca

Name of Person Mailing Paper or Fee

Patsy Fonseca

Signature

8-25-05

Date of Signature

Re: Petition for Revival of Application Due to Unintentional Delay
Applicant: Lawler Manufacturing Company, Inc.
Invention: MIXING VALVE
Serial No.: 10/783,502
Our File No.: P00799-US-01 (20680.0001)

Dear Petitions Attorney Faison-Ball:

This is in reply to the office communication sent to the Applicant on August 5, 2005, dismissing the Applicant's request for reconsideration filed July 13, 2004 for failure to timely reply to the Decision on Petition mailed April 6, 2005. Applicant respectfully requests revival of the abovementioned application (the "Application") on the grounds of unintentional delay as set forth below, and hereby requests reconsideration of the Decision on Petition for the reasons set forth in the enclosed reply. In support of Applicant's requests, Applicant encloses (1) the Petition for Revival under 37 C.F.R. 1.137; (2) a copy of the original reply to the Decision on Petition inadvertently sent to the incorrect facsimile number; (3) a copy of the Notice of Abandonment; and includes below an explanation of the facts in support of Applicant's assertion that the delay was unintentional.

I. Applicant Requests Revival of Application Based Upon Unintentional Delay

Applicant has received a Notice of Abandonment and Dismissal of Petition based upon a failure to timely reply to the Decision on Petition mailed April 6, 2005 (the "Decision"). As seen in the enclosed original reply to the Decision on Petition (the "Reply"), Applicant drafted and sent a copy of the Reply via facsimile on June 3, 2005, within the two month deadline established in the Decision. However, Applicant inadvertently sent the Reply to the facsimile number for the United States Patent Office's assignment division rather than the facsimile number for the Office of Petitions. It was not until Applicant received the Notice of Abandonment and Dismissal that Applicant realized the clerical error that caused the response to be sent to the incorrect office.

Pursuant to 37 C.F.R. 1.137(b), Applicant hereby (1) represents that the entire delay was unintentional as the delay was caused by the inadvertent clerical error of submitting the Reply to the wrong facsimile number; (2) encloses a true copy of the Reply inadvertently sent to the wrong facsimile number; and (3) encloses the \$750.00 petition fee set forth in 37 C.F.R. 1.17(m). No terminal disclaimer is required under 37 CFR 1.137(d), as the Application was filed after June 8, 1995. Therefore, for the abovementioned reasons, Applicant requests that the Application be revived, and the enclosed Reply to the Decision on Petition be considered.

II. Applicant Requests Reconsideration of Decision on Petition


The enclosed Reply to the Decision on Petition addresses each of the Petitions Attorney's concerns regarding the Petition filed July 13, 2004. But for the inadvertent transmission of the Reply to the wrong office, Applicant's Reply would have been timely filed, as discussed above. Therefore, in light of Applicant's petition for revival of the Application and Petition on the grounds of unintentional delay, Applicant hereby requests that Senior Petitions Attorney Faison-Ball grant Applicant's Petition for the reasons set forth in the enclosed Reply.

Applicant has fulfilled the obligations of 37 C.F.R. 1.137(b) to revive the Application on the basis of unintentional delay. Applicant believes it has attended to all representations, fees,

and payments required therewith. In the event the Applicant has inadvertently overlooked the need for an extension of time or payment of an additional fee, Applicant conditionally petitions therefor, and authorizes any fee deficiency to be charged to deposit account 09-0007. If any further questions regarding this matter remains, the Petitions Attorney is invited to contact the undersigned.

Respectfully submitted,

ICE MILLER

A handwritten signature in black ink, reading "Homer W. Faucett, III". The signature is written in a cursive style with a large, stylized "H" and "F".

Homer W. Faucett, III

HWF/pgf

Enclosures: Petition for Revival
Copy of Original Reply
Copy of Notice of Abandonment
Check for Petition Fee in amount of \$750.00
Return Postcard



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/783,502	02/20/2004	Kevin B. Kline	P00799-US-01 (20680.0001)

CONFIRMATION NO. 7588

ABANDONMENT/TERMINATION LETTER



OC000000016538605

22446
 ICE MILLER
 ONE AMERICAN SQUARE
 BOX 82001
 INDIANAPOLIS, IN 46282

Date Mailed: 07/15/2005

NOTICE OF ABANDONMENT

Decision on Petition

The above-identified application is **abandoned** for failure to timely reply to the Decision on Petition mailed on 04/06/2005.

If a complete reply to the petition decision was previously filed by applicant within the time period set forth in the petition decision, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item(s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);
2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP §§ 512); or
3. If the reply was filed via Express Mail, a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the Express Mail mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OIPE.

If applicant did not previously file a complete reply within the time period set forth in the petition decision, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(i); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-

identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (571)-272-3282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

*A copy of this notice **MUST** be returned with the reply.*

W. Ineg

Office of Initial Patent Examination (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

